

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

WEST VIRGINIA CARPENTERS BENEFIT TRUST,
CARPENTERS HEALTH FUND OF WEST VIRGINIA,
CARPENTERS PENSION FUND OF WEST VIRGINIA,
and KEYSTONE MOUNTAIN LAKES REGIONAL COUNCIL
OF CARPENTERS,

ELECTRONICALLY
FILED
Dec 19 2017
U.S. DISTRICT COURT
Northern District of WV

Plaintiffs,
v.

BLACKHAWK INTERIORS, INC.,

Defendant.

Civil Action No. 1:17-CV-221 (Keeley)

COMPLAINT FOR MONIES DUE

1. This is an action brought pursuant to § 301 of the Labor Management Relations Act, 29 U.S.C. §185; and §§502 and 515 of the Employee Retirement Income Security Act of 1974 (ERISA), as amended, 29 U.S.C. §§ 1132 and 1145. Jurisdiction and venue are conferred on this Court by 29 U.S.C. §§185(a)(c), 1132(a), (e)-(f); and 28 U.S.C. §1331.

2. Keystone Mountain Lakes Regional Council of Carpenters is a labor organization under 29 U.S.C. §152(5), and represents employees who are an industry “affecting commerce.” See 29 U.S.C. §152(7).

3. Blackhawk Interiors, Inc.’s principal place of business is located at 3500 Morgantown Industrial Park, Morgantown, West Virginia, 26501.

4. The Carpenters Pension Fund of West Virginia (“Pension Plan”) is an employee pension benefit plan as is defined in 29 U.S.C. §1002(2). The Pension Fund is authorized to sue in its own name under 29 U.S.C. §1132(d)(1).

5. The Pension Fund is administered in Charleston, Kanawha County, West Virginia,

by its Plan Trustees.

6. The Carpenters Health Fund of West Virginia (“Health Fund”) is an employee welfare benefit plan as defined in 29 U.S.C. §1002(1). The Health Fund is authorized to sue in its own name and under 29 U.S.C. §1132(d)(1).

7. The Health Fund is administered in Charleston, Kanawha County, West Virginia, by its Plan Trustees.

8. The West Virginia Carpenters Benefit Trust (“Benefit Trust”) is an employee welfare plan as defined in 29 U.S.C. §1002(1). The Benefit Trust is authorized to sue under its own name under 29 U.S.C. §1132(d)(1).

9. The Benefit Trust is administered in Parkersburg, Wood County, West Virginia, by its Plan Trustees.

10. Defendant, Blackhawk Interiors, Inc., (“Blackhawk”), is an employer under 29 U.S.C. §152(2) and under 29 U.S.C. §1002(5). Blackhawk is a party to a collective bargaining agreement (see Attachment “A”) with Keystone Mountain Lakes Regional Council of Carpenters and whose principal place of business is Pittsburgh, Allegheny County, Pennsylvania.

11. Defendant signed an Acceptance of Agreement, wherein it agreed to be bound to the Collective Bargaining Agreement between the Keystone Mountain Lakes Regional Council of Carpenters and various West Virginia Contractors Bargaining Association, Inc. (“Associations”).

12. The Collective Bargaining Agreement obligates the employers signing on to the Agreement to contribute monthly to the Pension Fund and Health Fund and pay all other fringe benefits on behalf of all employees in the bargaining unit covered by the Agreement. It also requires that employer to withhold annuity payments and forward that money to Keystone Mountain Lakes Regional Council of Carpenters.

13. The Collective Bargaining Agreement requires that employers make monthly payments and file monthly Remittance Reports for fringe benefits on or before the fifteenth (15th) day of the month for the previous month when work is performed. The monthly Remittance Reports are utilized by the employers to calculate the payments they owe to Plaintiffs.

14. The West Virginia Benefit Trust has established procedures dealing with the collection of delinquent contributions. (See Attachment "B") These procedures are provided to all companies signatory to the Collective Bargaining Agreement.

15. On January 28, 2015, Blackhawk and the Benefit Trust entered into an agreement ("Payment Plan") wherein Blackhawk admitted that it owed the Benefit Trust \$237,641.60 for failure to pay benefits for their employees as mandated by the Collective Bargaining Agreement. This agreement mandated Blackhawk to pay the Benefit Trust \$9,901.74 per month for twenty-four months in order to satisfy the monies owed.

16. Blackhawk substantially complied with this agreement until November 2016. Beginning with the November 2016 payment, Blackhawk failed to make the required monthly payments and at this time six months of payments were owed under the Payment Plan.

17. In July of 2017, Blackhawk requested that the Payment Plan be revised so that the monthly payment would be reduced by fifty percent. The Trustees agreed to the reduction, however, Blackhawk has only made one payment under the revised Payment Plan. The remaining balance owed is \$54,459.57 excluding interest and liquidated damages.

18. Under the terms of this Collective Bargaining Agreement and outside the parameters of the Payment Plan, Blackhawk is required to submit monthly reports and payments for fringe benefits and annuities to the Benefit Trust. Blackhawk has failed to submit monthly payments for the months of April, May, June, July, August, September, and October, owing at least \$186,691.37.

19. Defendant's refusal to remit payments to the Benefit Trust, Pension Fund, Union, Health Fund and other fringe benefit funds violates the Collective Bargaining Agreement, the provisions of the collective bargaining agreement, Pension Fund, Health Fund and the requirements of ERISA.

20. A copy of this Complaint is being served upon the Secretary of Labor and the Secretary of the Treasury by certified mail as required by 29 U.S.C. §1132(h).

WHEREFORE, Plaintiffs ask that this Court require Defendant to pay:

1. Unpaid contributions owed under the payment plan;
2. Unpaid contributions for the months of April through September 2017;
3. All other contributions discovered to be due and owing;
4. Plan interest on the late contributions;
5. Liquidated damages;
6. Reasonable attorney fees and costs incurred prior to filing and during the litigation of this action;
7. Prejudgment interest on all special damages; and
8. Such other legal or equitable relief which the Court deems appropriate.

West Virginia Carpenters Benefit Trust,
Carpenters Health Fund of West Virginia,
Carpenters Pension Fund of West Virginia
and Keystone Mountain Lakes Regional
Council of Carpenters,

By counsel

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